



INFINITE CAMPUS END USER LICENSE AGREEMENT

This Infinite Campus End User License Agreement ("**Agreement**") is made between **Infinite Campus, Inc.**, a Minnesota corporation located at 4321 109th Ave NE, Blaine, MN 55449-6794 ("**Company**") and
Downingtown Area School District, with offices located at
540 Trestle Place, Downingtown, PA 19335 ("**Licensee**").

RECITALS

- A. Company has developed certain proprietary student information software and as updated and revised by Company from time to time (the "Infinite Campus Product"), and Company has licenses from third parties or developed other products and services as offered by Company and as amended by Company from time to time (the "Infinite Campus Additional Products"). The Infinite Campus Product, and the Infinite Campus Additional Products are collectively referred to as the "Infinite Campus Products";
- B. Company or a Company authorized service provider provides certain services for the Infinite Campus Products, including software implementation services, software maintenance services, training services, product support services, technical support services and application hosting services (the "Infinite Campus Services");
- C. Company and Licensee desire to enter into this Agreement for the purpose of facilitating the licensing of certain Infinite Campus Products, and delivery of certain Infinite Campus Services, subject to the terms and conditions of this Agreement.

NOW, THEREFORE, for and in consideration of the terms and conditions hereinafter stated, it is agreed as follows:

1.0 Grant of License

- 1.1 Type of License. Subject to the terms and conditions hereof, Company agrees to grant Licensee a non-exclusive, non-transferable, non-sublicensable, non-perpetual, right and license to the Infinite Campus Products and the related documentation ("Documentation") identified on the Order and Pricing Schedule(s) attached hereto. Licensee shall install and use the Infinite Campus Products and the Documentation solely for its own internal use and for the purposes for which such Infinite Campus Products and Documentation were designed.
- 1.2 Initial Term and Fees. Upon the Term Start Date indicated on the duly executed Order and Pricing Schedule(s) attached hereto, Company shall provide Licensee with the Infinite Campus Products and Infinite Campus Services and any associated Documentation (defined as users' manuals, reference guides, programmers' guides and/or system guides, as applicable) as indicated on the Order and Pricing Schedule(s). The fees for the licenses shall be valid from the Term Start Date until six months thereafter (the "Initial Term").
- 1.3 Reoccurring Annual Fees. Following the Initial Term, for each 12 month period thereafter (the "Subsequent Term"), Licensee shall pay annual fees according to the then current license fees for the licensed Infinite Campus Products (the "Reoccurring Annual Fees"). Company shall review the number of students enrolled as certified by the state in which the Licensee resides, and, in the event that the total number of enrolled students has increased or decreased, Company may increase or decrease the Reoccurring Annual Fees according to the then current fees for the licensed Infinite Campus Products and Services.

- 1.4 Additional Terms and Conditions. In addition to the terms in the Agreement, the license granted under section 1.1 above, shall be subject to the terms and conditions of all Exhibits attached hereto and incorporated herein.

2.0 Ownership and Protection of Infinite Campus Products

- 2.1 Title: Ownership. Licensee acknowledges that the Infinite Campus Products; all source code, object code, class libraries, user interface screens, algorithms, development frameworks, repository, system designs, system logic flow, and processing techniques and procedures related thereto; the Documentation, any system user documentation, or other documentation related thereto; any copies and derivatives of any of the foregoing, in whole or in part; as well as all copyright, patent, trademark, trade secret and other proprietary rights in any of the foregoing; are and shall remain the sole and exclusive confidential property of Company or Company licensor. Licensee further acknowledges that any reports or other data generated by the Infinite Campus Products regarding traffic flow, system loads and/or product installation are the exclusive property of Company and may be used, and Licensee hereby specifically authorizes the use of such reports and/or other data, by Company in any manner that it deems to be appropriate.
- 2.2 Protection of Infinite Campus Products and Documentation. Licensee shall not allow, and shall not allow any third party to:
- 2.2.a adapt, modify, change, maintain, translate, decompile, disassemble, reconstruct, or reverse engineer the Infinite Campus Products or the Documentation, or any portion thereof;
 - 2.2.b identify or discover any source code of the Infinite Campus Products;
 - 2.2.c distribute, sell or sublicense copies of the Infinite Campus Products or the Documentation or any portion thereof;
 - 2.2.d create copies of the Infinite Campus Products or the Documentation except to make a copy of any program which is required as an essential step in its utilization or to make an archival or back-up copy of the Infinite Campus Products; or
 - 2.2.e incorporate any portion of Infinite Campus Products into or with any other Infinite Campus Products or other products, or create any derivative works of the Infinite Campus Products or Documentation.
- 2.3 Confidentiality. Licensee agrees that the Infinite Campus Products contain proprietary information, including trade secrets, know-how and confidential information that are the exclusive property of Company or Company licensor. During the period this Agreement is in effect and at all times after its termination, Licensee and its employees and agents shall maintain the confidentiality of this information and not sell, license, publish, display, distribute, disclose or otherwise make available this information to any third party nor use such information other than to inform permitted users of the conditions and restrictions on the use of the Infinite Campus Products or the Documentation set, and to the extent permitted by law, Licensee will not disclose the terms and conditions of this Agreement without the prior written consent of Company.

3.0 Payment

- 3.1 Payment Terms. Licensee shall pay Company's Authorized Channel Partner, Custom Computer Specialists, Inc., the Fees as provided in the Order and Pricing Schedule(s) attached hereto.
- 3.2 Taxes. All amounts set forth for payment are exclusive of applicable sales and similar

taxes and it shall be Licensee's responsibility to add to the amounts payable, and to pay all such taxes, if applicable.

4.0 Indemnification; Warranties

4.1 Indemnifications

- 4.1.a If Licensee notifies Company in writing and gives Company sole control over the defense and all related settlement negotiations, Company will defend, hold harmless and indemnify Licensee against any damages finally awarded or amounts paid in settlement as a result of any claim or threat of claim brought by a third party against Licensee to the extent based on an allegation that: (i) Products for which Licensee has licensed from Company infringes any U.S. patent, copyright, trademark, trade secret or other proprietary right of a third party, or (ii) a defective Product directly caused death or personal injury; provided that Licensee did not alter, modify, or otherwise change the Product or software that gave rise to such claim.
- 4.1.b To the extent permitted by law, Licensee will defend, hold harmless and indemnify Company against any claim or threat of claim brought by a third party against Company arising out of the acts or omissions of Licensee or its employees, excluding acts or omissions expressly required or prescribed by this Agreement.
- 4.1.c If either party seeks indemnification provided for in this Section, each party seeking indemnification will cooperate with and provide reasonable assistance in the defense or settlement of any claim or legal proceeding. Licensee and Company will not make public any terms, or the mere existence, of any settlements.
- 4.1.d THE FOREGOING STATES THE ENTIRE LIABILITY AND OBLIGATION OF COMPANY WITH RESPECT TO ANY INFRINGEMENT OR CLAIMS OF INFRINGEMENT BY THE INFINITE CAMPUS PRODUCTS OR ANY PART THEREOF, OF ANY PATENT, COPYRIGHT, TRADE SECRET OR OTHER PROPRIETARY RIGHT.

4.2 Warranties

- 4.2.a Operational Warranty. Company warrants that, during the ninety (90) day period (the "Warranty Period") commencing on the delivery date of the Infinite Campus Product to Licensee, the Infinite Campus Products will operate in substantial conformity with the Documentation when used in strict compliance therewith. This warranty is contingent upon Licensee's installation of all corrections, enhancements, updates and new releases provided by Company to Licensee and the absence of damage or abuse to the Infinite Campus Products.
- 4.2.b Breach of Operational Warranty. Notwithstanding the foregoing, Licensee acknowledges that it is solely responsible for having the appropriate compatible network(s) and operating system environment(s), and as Licensee's sole and exclusive remedy for any breach of this warranty, Company shall, at its sole option, within a reasonable period of time, provide all reasonable programming services to correct programming errors in the Infinite Campus Products, replace the Infinite Campus Products or terminate this Agreement and refund to the Licensee the license fees paid to Company under this Agreement for the defective Infinite Campus Products, as set forth in section 6.2(c) of this agreement, refunding the unamortized portion (assuming straight line

amortization) of the annual license fees paid. Any professional services provided under this Agreement are provided "as is" without representation or warranty of any kind or nature.

- 4.2.c Limitation. EXCEPT AS EXPRESSLY SET FORTH IN THIS PARAGRAPH 4, COMPANY MAKES NO WARRANTY OR REPRESENTATION, EITHER EXPRESS OR IMPLIED, INCLUDING, BUT NOT LIMITED TO, ANY IMPLIED WARRANTIES OF MERCHANTABILITY OR FITNESS FOR A PARTICULAR PURPOSE, AND ANY WARRANTIES OF QUALITY OR PERFORMANCE, OR AS A RESULT OF A COURSE OF DEALING OR USAGE OF TRADE, WITH RESPECT TO THE INFINITE CAMPUS PRODUCTS AND ANY MAINTENANCE, SUPPORT OR OTHER SERVICES.

5.0 Limitations of Liability

EXCEPT TO THE EXTENT INCLUDED IN AN AWARD SUBJECT TO COMPANY'S INDEMNITY OBLIGATION, IN NO EVENT WILL COMPANY BE LIABLE FOR INCIDENTAL, CONSEQUENTIAL, INDIRECT, PUNITIVE OR SPECIAL DAMAGES OF ANY NATURE, SUCH AS LOST BUSINESS PROFITS. COMPANY'S TOTAL LIABILITY WILL BE LIMITED TO THE LICENSE FEES ACTUALLY PAID BY LICENSEE TO INFINITE CAMPUS FOR THE APPLICABLE INFINITE CAMPUS PRODUCTS, SUBJECT HOWEVER TO A TWELVE (12) MONTH STRAIGHT LINE DEPRECIATION COMMENCING ON THE DATE OF DELIVERY OF SUCH INFINITE CAMPUS PRODUCTS.

6.0 Agreement Term and Termination

- 6.1 Agreement Term. The term of this Agreement (the "Agreement Term") shall begin Jan 24, 2019 ("Effective Date"), and shall remain in effect until terminated pursuant to Section 6.2.
- 6.2 Agreement Termination. This Agreement may be terminated as follows:
- 6.2.a either party may terminate this Agreement, with or without cause, with no less than thirty (30) days written notice.
 - 6.2.b either party may terminate this Agreement if one party's actions expose the other party to any violation of law and fails to cure such actions within 15 days of notice thereof;
 - 6.2.c either party may terminate this Agreement and any other active agreement with the other party if the other party fails to fully perform any material obligation under this Agreement with thirty (30) days to cure;
 - 6.2.d notwithstanding the foregoing, if the Licensee violates the provisions of Sections 2.0 of this Agreement the Company may terminate this Agreement immediately without notice.

In the event of termination of this Agreement by the Company pursuant to Section 6.2(a) prior to an anniversary date the Company shall refund the unamortized portion (assuming straight line amortization) of the annual license fees paid. In the event of termination of this Agreement by the Company pursuant to Sections 6.2(b), 6.2(c) or 6.2(d) prior to an anniversary date, the Company shall be entitled to prepaid license fees for the balance of the year of termination.

In the event of termination of this Agreement by the Licensee pursuant to Section 6.2(a) prior to an anniversary date the Company shall be entitled to prepaid license fees for the balance of the year of termination. In the event of termination of this Agreement by the Licensee pursuant to Section 6.2(b) or 6.2(c) Company shall refund the unamortized portion (assuming straight line amortization) of the annual license fees paid.

6.3 Responsibilities in the Event of Termination.

6.3.a Upon any termination of this Agreement and/or the license to use any Infinite Campus Products, Licensee shall cease to use the Infinite Campus Products and shall return to Company the Infinite Campus Products and all copies thereof and all proprietary and confidential property of Company. Licensee shall expunge all copies of the Infinite Campus Products from its computer(s) and server(s). Failure to comply with this Section shall constitute continued use of the Infinite Campus Products. Licensee shall provide a certificate from an officer of Licensee stating compliance with this Section. Company shall also have such other legal and equitable rights and remedies to which it may be entitled with respect to Licensee's failure to comply with the provisions of this Agreement.

6.3.b Upon 90 business days following the termination of this Agreement, or sooner at the request of the District, Company warrants that the original and all copies of District information, educational records and pupil records as such terms are defined by the Family Educational Rights and Privacy Act (20 U.S.C. § 1232g; 34 CFR Part 99, "FERPA"), and any other State or Federal law relating to the protection of confidential student information, will be returned to the District or destroyed in such a manner that such information cannot be read, executed, viewed or in any way accessed when destroyed.

6.4 No Liability for Termination. Except as provided for in this Agreement, neither party shall be liable to the other for damages of any kind, including incidental or consequential damages, damages for loss of prospective business or loss of continuing business, or otherwise which arise due to the expiration or termination of this Agreement. This does not relieve either party from responsibility for damages caused by its actions or breaches of the Agreement, but only for damages related to or resulting from the expiration or termination of the business relationship.

6.5 Survivorship. Those sections that by their nature survive expiration or termination of this Agreement will survive such expiration or termination.

7.0 Application Hosting

Company and Licensee agree to the terms and conditions of the Application Infrastructure Hosting Services Agreement, which is attached hereto and fully incorporated herein. Licensee shall be billed for the Infinite Campus Services, as described in the Application Infrastructure Hosting Services Agreement, in accordance with the payment terms set forth in Section 3.0 of this Agreement.

8.0 Training, Data Conversion and Project Management Services

Training Services, Data Conversion Services, or Project Management Services requested by Licensee during the Initial Term or following the Initial Term shall be provided for an additional charge, in accordance with an Implementation Services Agreement provided by Infinite Campus or authorized service partner.

9.0 General Terms and Conditions

9.1 Assignment. Licensee shall not, voluntarily or involuntarily, sublicense, sell, assign, give or otherwise transfer this Agreement. Any such transfer or attempted transfer shall be null and void. Company has the right to assign or otherwise transfer its rights and obligations under any of this Agreement, whether voluntarily, involuntarily, or by operation of law.

9.2 Governing Law. This Agreement will be governed and interpreted under the laws of the

state of Minnesota, U.S.A, without regard to its conflict of law's provisions. Any action arising out of or related to this Agreement must be brought within one (1) year from the first date such action could have been brought, despite any longer period provided by statute. If a longer period is provided by statute, the parties hereby expressly waive it.

- 9.3 Amendments; Waiver. This Agreement shall not be amended or modified except in writing by duly authorized representatives of the parties that refer specifically to this Agreement. The failure of either party to enforce at any time or for any period of time the provisions hereof shall not be construed to be a waiver of such provisions or of the right to enforce each and every such provision.
- 9.4 Severability. If a court of competent jurisdiction holds that any provision of this Agreement is invalid or unenforceable, the remaining portions of this Agreement will remain in full force and effect, and the parties will replace the invalid or unenforceable provision with a valid and enforceable provision that achieves the original intent of the parties and economic effect of the Agreement.
- 9.5 Headings and Construction. Paragraph headings are for reference only and will not be considered as parts of this Agreement. Wherever the singular is used, it includes the plural, and, wherever the plural is used, the singular is included.
- 9.6 Force Majeure. Except for the obligation to make payments, neither party will be liable for any failure or delay in its performance under this Agreement due to any cause beyond its reasonable control, including acts of war, acts of God, acts of terrorism, earthquake, flood, embargo, riot, sabotage, labor shortage or dispute, governmental act or failure of the Internet (not resulting from the actions or inactions of Company), provided that the delayed party: (i) gives the other party prompt notice of such cause, and (ii) uses its reasonable commercial efforts to promptly correct such failure or delay in performance.
- 9.7 Entire Agreement. This Agreement supersedes all previous agreements and representations of, between or on behalf of the parties in regard to the subject matter herein. Any document, instrument, or agreement issued or executed contemporaneous or subsequent to this Agreement shall not alter the terms and conditions of this Agreement. This Agreement contains all of Company's and Licensee's agreements, warranties, understandings, conditions, covenants and representations in regard to the subject matter herein. Neither Company nor Licensee will be liable for any warranties, understandings, conditions, covenants or representations not expressly set forth or referenced in this Agreement. Licensee acknowledges that Company reserves the right to refuse any different or additional provisions in purchase orders, invoices or similar documents, and such refused provisions will be unenforceable.
- 9.8 Notices. Any notice under this Agreement must be in writing and will be deemed given upon the earlier of actual receipt or ten (10) days after being sent by first class mail, return receipt requested, to the address set forth below for Company and to the address designated on page one (1) of this Agreement by Advocate for receipt of notices, or as may be provided by the parties.

Infinite Campus, Inc.	Downingtown Area School District
Sales Contracts Management	Jane S. Bertone
4321 109 th Ave NE	540 Trestle Place
Blaine, MN 55449-6794	Downingtown, PA 19335

Either party may give notice of its change of address for receipt of notices by giving notice in accordance with this section.

9.9 Applicable Law. Company complies and shall comply with applicable laws governing online privacy and student data privacy, including the Child Privacy Protection and Parental Empowerment Act, FERPA, the Children's Online Privacy Protection Act, and state laws. Licensee may review these laws and their related regulations by logging on to the U.S. Federal Trade Commission's website at <http://www.ftc.gov>.

- 9.9.a. In the course of providing services during the term of this Agreement, Company may have access to student education records that are subject to FERPA. Such information is considered confidential and is protected. To the extent that Company has access to "education records" under this Agreement, it is deemed a "school official," as each of these terms are defined under FERPA. Company agrees that it shall not use education records for any purpose other than in the performance of this Agreement. Except as required by law or court order, Company shall not disclose or share education records with any third party unless: a) permitted by the terms of this Agreement, b) directed to do so, in writing, by Licensee, or c) to subcontractors who have agreed to maintain the confidentiality of the education records to the same extent required of Company under this Agreement.
- 9.9.b. In the event any third party seeks to access education records that are subject to FERPA beyond the access that is provided to Company affiliated individuals for purpose of providing the services under the Agreement, whether said third party request is in accordance with FERPA or other Federal or relevant State law or regulations, Company shall immediately inform Licensee of such request in writing. Company shall not provide direct access to such data or information or respond to said third party requests, unless compelled to do so by court order or lawfully issued subpoena from any court of competent jurisdiction. Should Company receive a court order or lawfully issued subpoena seeking the release of such data or information, Company shall provide immediate notification, along with a copy thereof, to Licensee prior to releasing the requested data or information, if allowed by law or judicial and/or administrative order/subpoena.
- 9.9.c. If Company experiences a security breach concerning any education record covered by this Agreement, Company shall immediately notify Licensee and take immediate steps to limit and mitigate such security breach to the extent possible. The Parties agree that any material breach by Company of the confidentiality obligation set forth in this Agreement may, at Licensee's discretion, result in cancellation of this Agreement and the eligibility for Company to receive any information from Licensee for a period of not less than five (5) years. The Parties further agree to indemnify and hold each other harmless for any loss, cost, damage or expense suffered by the non-breaching Party, including but not limited to the cost of notification of affected persons, as a direct result of the breaching Party's unauthorized disclosure of education records that are subject to FERPA, or any other confidentiality/privacy provision, whether federal, state or administrative in nature.
- 9.9.d. Upon termination of this Agreement, Company shall return and/or destroy all data or information that it received from Licensee hereunder as, and in accordance with, Section 6.3.b of this Agreement. Company shall not knowingly retain copies of any data or information received from Licensee once Licensee has directed Company as to how such information shall be returned and/or destroyed. Furthermore, Company shall ensure that it disposes of any and all data or information received from Licensee in a commercially reasonable manner that maintains the confidentiality of the contents of such records (e.g. shredding

paper records, erasing and reformatting hard drives, erasing and/or physically destroying any portable electronic devices).

- 9.9 Export Rules. Licensee agrees that the Infinite Campus Products will not be shipped, transferred or exported into any country or used in any manner prohibited by the United States Export Administration Act or any other export laws, restrictions or regulations (collectively the "Export Laws"). In addition, if the Infinite Campus Products are identified as export controlled items under the Export Laws, Licensee represents and warrants that Licensee is not a citizen, or otherwise located within, an embargoed nation (including without limitation Iran, Iraq, Syria, Sudan, Libya, Cuba, North Korea and Serbia) and that Licensee is not otherwise prohibited under the Export Laws from receiving the Infinite Campus Products. All rights to use the Infinite Campus Products under this Agreement are granted on the condition that such rights are forfeited if Licensee fails to comply with the terms of this Section 10.10.
- 9.10 U.S. Government End-Users. Each component licensed under this Agreement that constitute the Infinite Campus Products and Services is a "commercial item" as that term is defined at 48 C.F.R. 2.101, consisting of "commercial computer software" and/or "commercial computer software documentation" as such terms are used in 48 C.F.R. 12.212. Consistent with 48 C.F.R. 12.212 and 48 C.F.R. 227.7202-1 through 227.7202-4, all end users acquire the Infinite Campus Products and Services with only those rights set forth herein.
- 9.11 Electronic Signatures; Counterparts. This Agreement may be executed in any number of counterparts, each of which when so executed will be deemed to be an original and all of which when taken together will constitute one Agreement. The parties agree that the electronic signature of a party to this Agreement shall be as valid as an original signature of such party and shall be effective to bind such party to this Agreement. The parties agree that any electronically signed document shall be deemed (a) to be "written" or "in writing," (b) to have been signed and (c) to constitute a record established and maintained in the ordinary course of business and an original written record when printed from electronic files. Such paper copies will be admissible as between the parties to the same extent and under the same conditions as other original business records created and maintained in documentary form. Neither party shall contest the admissibility of true and accurate copies of electronically signed documents on the basis of the best evidence rule or as not satisfying the business records exception to the hearsay rule. For purposes hereof, "electronic signature" means a manually signed original signature that is then transmitted by electronic means; "transmitted by electronic means" means sent in the form of a facsimile or sent via the internet as a "pdf" (portable document format) or other replicating image attached to an e mail message; and, "electronically signed document" means a document transmitted by electronic means and containing, or to which there is affixed, an electronic signature.

IN WITNESS WHEREOF, this Infinite Campus End User License Agreement has been executed by the duly authorized representative of Company and Licensee.

Infinite Campus, Inc.

By: 

Name: Eric Creighton

Its: Chief Operating Officer

Downingtown Area School District

By: 

Name: Jane S. Bertone

Its: Downingtown Board President



Amendment to the Infinite Campus END USER LICENSE AGREEMENT

This Amendment to the Infinite Campus End User License Agreement (the "Amendment"), is made between Infinite Campus, Inc. a Minnesota corporation located at 4321 109th Avenue NE, Blaine, MN 55449 (the "Company") and Downingtown Area School District, with offices located at 540 Trestle Place, Downingtown, PA 19335, ("Licensee") and amends the agreement between the same parties titled End User License Agreement with an effective date of 1/1/2019.

NOW, THEREFORE, the parties hereto hereby agree as follows:

Amendment to Section 2.3 Section 2.3 to the Agreement is hereby deleted. Section 2.3, below, becomes Section 2.3 to the Agreement, as here amended.

- 2.3 **Confidentiality.** Licensee agrees that the Infinite Campus Products contain proprietary information, including trade secrets, know-how and confidential information that are the exclusive property of Company or Company licensor. During the period this Agreement is in effect and at all times after its termination, Licensee and its employees and agents shall maintain the confidentiality of this information and not sell, license, publish, display, distribute, disclose or otherwise make available this information to any third party nor use such information other than to inform permitted users of the conditions and restrictions on the use of the Infinite Campus Products or the Documentation set, and to the extent permitted by law.

Amendment to Section 4.1.a Section 4.1.a to the Agreement is hereby deleted. Section 4.1.a, below, becomes Section 4.1.a to the Agreement, as here amended.

- 4.1.a If Licensee notifies Company in writing and gives Company sole control over the defense and all related settlement negotiations, Company will indemnify, save and hold harmless the Licensee, its officers, employees, agents and members of the School Board, from and against any and all liability, losses, claims, suits, actions, costs, damages and expenses (Including reasonable attorneys' fees, court costs and legal expenses actually incurred of whatever kind or nature), to the extent based on an allegation that: (i) Products for which Licensee has licensed from Company infringes any U.S. patent, copyright, trademark, trade secret or other proprietary right of a third party, or (ii) a defective Product directly caused death or personal injury; provided that Licensee did not alter, modify, or otherwise change the Product or software that gave rise to such claim.

Amendment to Section 4.1.b Section 4.1.b to the Agreement is hereby deleted. Section 4.1.b, below, becomes Section 4.1.b to the Agreement, as here amended.

- 4.1.b To the extent permitted by law, if Company notifies Licensee in writing and gives Licensee sole control over the defense and all related settlement negotiations, Licensee will defend, hold harmless and indemnify Company against any claim or threat of claim brought by a third party against Company arising solely out of the acts or omissions of Licensee or its employees, excluding acts or omissions expressly required or prescribed by this Agreement. Notwithstanding anything herein to the contrary, this provision shall not apply to any claim arising out of any act or omission of any employee, agent or official of the Licensee that was not within the course or scope of said employee's, agent or official's employment or service to the School District.

Amendment to Section 4.1.c Section 4.1.c to the Agreement is hereby deleted. Section 4.1.c, below, becomes Section 4.1.c to the Agreement, as here amended.

- 4.1.c To the extent permitted by law, if Licensee notifies Company in writing and gives Company sole control over the defense and all related settlement negotiations, Company will defend, hold harmless and indemnify Licensee against any claim or threat of claim brought by a third party against Licensee arising solely out of the acts or omissions of Company or its employees, excluding acts or omissions expressly required or prescribed by this Agreement. Notwithstanding anything herein to the contrary, this provision shall not apply to any claim arising out of any act or omission of any employee, agent or official of the Company that was not within the course or scope of said employee's, agent or official's employment or service to the Company.

Amendment to Section 4.1.d Section 4.1.d to the Agreement is hereby deleted. Section 4.1.d, below, becomes Section 4.1.d to the Agreement, as here amended.

- 4.1.d If either party seeks indemnification provided for in this Section, each party seeking indemnification will cooperate with and provide reasonable assistance in the defense or settlement of any claim or legal proceeding. Licensee and Company will not make public any terms, or the mere existence, of any settlements except as required by applicable law, including the Right-to-Know Law.

Amendment to Section 4.1.e Section 4.1.e to the Agreement is hereby deleted. Section 4.1.e, below, becomes Section 4.1.e to the Agreement, as here amended.

- 4.1.e THE FOREGOING STATES THE ENTIRE LIABILITY AND OBLIGATION OF THE PARTIES WITH RESPECT TO ANY INFRINGEMENT OR CLAIMS OF INFRINGEMENT BY THE INFINITE CAMPUS PRODUCTS OR ANY PART THEREOF, OF ANY PATENT, COPYRIGHT, TRADE SECRET OR OTHER PROPRIETARY RIGHT.

Amendment to Section 4.2.c Section 4.2.c to the Agreement is hereby deleted. Section 4.2.c, below, becomes Section 4.2.c to the Agreement, as here amended.

- 4.2.c **Limitation.** EXCEPT AS EXPRESSLY SET FORTH IN THIS PARAGRAPH 4, COMPANY MAKES NO WARRANTY, EITHER EXPRESS OR IMPLIED, INCLUDING, BUT NOT LIMITED TO, ANY IMPLIED WARRANTIES OF MERCHANTABILITY OR FITNESS FOR A PARTICULAR PURPOSE, AND ANY WARRANTIES OF QUALITY OR PERFORMANCE, OR AS A RESULT OF A COURSE OF DEALING OR USAGE OF TRADE, WITH RESPECT TO THE INFINITE CAMPUS PRODUCTS AND ANY MAINTENANCE, SUPPORT OR OTHER SERVICES.

Amendment to Section 4.2.d Section 4.2.d to the Agreement is hereby added. Section 4.2.d, below, becomes Section 4.2.d to the Agreement, as here amended.

- 4.2.d **Access:** Company shall ensure, unless an undue burden would be imposed on Company, that the electronic and information technology provided to the Licensee and its students under this Agreement allows, regardless of the type of medium of the technology, individuals, including students with disabilities to have access to and use of information and data that is comparable to the access to and use of the information and data by members of the public who are not individuals with disabilities. Company will follow guidelines, such as those expressed by Web Content Accessibility Guidelines (WCAG), so that users with disabilities can interact with the software.

Amendment to Section 4.2.e Section 4.2.e to the Agreement is hereby added. Section 4.2.e, below, becomes Section 4.2.e to the Agreement, as here amended.

- 4.2.e Company warrants that it will use commercially reasonable efforts, in accordance with standard software industry practice, to ensure that the Software provided under this Agreement shall not contain a computer "virus" or other contaminant, including codes or instructions intended to delete, damage or disable your computer system ("Malicious Code"). If Malicious Code is discovered in the Software, Company will, at its sole cost and expense, provide and install a clean copy of the Software that does not contain such Malicious Code and will cure the damages caused by the Malicious Code. As of the effective date of this Agreement to the best of Company's knowledge the Software does not contain any time out devices, license keys or other similar technology (except for purposes of enforcing the licensing Agreements of the parties) that will interfere with or restrict Licensee's use of the Software.

Amendment to Section 5.0 Section 5.0 to the Agreement is hereby deleted. Section 5.0, below, becomes Section 5.1 to the Agreement, as here amended.

- 5.1 NOTWITHSTANDING ANYTHING HEREIN TO THE CONTRARY AND EXCEPT TO THE EXTENT INCLUDED IN AN AWARD SUBJECT TO THE PARTIES' INDEMNITY OBLIGATION, IN NO EVENT WILL EITHER PARTY BE LIABLE FOR INCIDENTAL, CONSEQUENTIAL, INDIRECT, PUNITIVE OR SPECIAL DAMAGES OF ANY NATURE, SUCH AS LOST BUSINESS PROFITS. THE TOTAL LIABILITY OF BOTH PARTIES WILL BE LIMITED TO ONE TIME THE ANNUAL LICENSE FEES ACTUALLY PAID BY LICENSEE TO INFINITE CAMPUS FOR THE APPLICABLE INFINITE CAMPUS PRODUCTS WITHIN THE LAST TWELVE MONTH'S PRECEDING THE DATE OF LOSS.

Amendment to Section 5.0 Section 5.0 to the Agreement is hereby deleted. Section 5.2, below, becomes Section 5.2 to the Agreement, as here amended.

- 5.2 District Liability, Responsibility or Risk of Loss. Notwithstanding any other provisions of this Agreement or any Addenda or Exhibits to the contrary, the District, its officers, employees and agents and members of the Board of Education retain their statutory governmental, official and any other immunity as provided pursuant to the Applicable Law, including 42 Pa C.S.A. §§8501 and 8541 et seq., and do not waive the defenses of governmental and official immunity derived from such laws. Devereux acknowledges that the District:
- (a) Is a local agency, as defined in 42 Pa. C.S.A. §8501, §8541, and,
 - (b) Does not waive, for itself or for its officers, employees, or agents, or for the members of the Board of Education, the defenses of statutory governmental or official immunity or any other defenses or immunities available to it or any of them.

Amendment to Section 6.2 Section 6.2 to the Agreement is hereby deleted. Section 6.2, below, becomes Section 6.2 to the Agreement, as here amended.

- 6.2 Agreement Termination. This Agreement may be terminated as follows:
- 6.2.a Licensee may terminate this Agreement, with or without cause, with no less than thirty (30) days written notice.
 - 6.2.b Company may terminate this Agreement, with or without cause, with no less than a reasonable amount of written notice that would allow the Licensee to select an alternative vendor, contract with said vendor, and implement use of the products by said vendor, provided that the Licensee shall complete said process within twelve months of the date of notice by the Company.
 - 6.2.c either party may terminate this Agreement if one party's actions expose the other party to any violation of law and fails to cure such actions within 15 days of notice thereof;
 - 6.2.d either party may terminate this Agreement and any other active agreement with the other party if the other party fails to fully perform any material obligation under this Agreement with thirty (30) days to cure;
 - 6.2.e notwithstanding the foregoing, if the Licensee violates the provisions of Sections 2.0 of this Agreement the Company may terminate this Agreement immediately without notice.

In the event of termination of this Agreement by the Company pursuant to Section 6.2(a) prior to an anniversary date the Company shall refund the unamortized portion (assuming straight line amortization) of the annual license fees paid. In the event of termination of this Agreement by the Company pursuant to Sections 6.2(b), 6.2(c) or 6.2(d) prior to an anniversary date, the Company shall be entitled to prepaid license fees for the balance of the year of termination.

In the event of termination of this Agreement by the Licensee pursuant to Section 6.2(a) prior to an anniversary date the Company shall be entitled to prepaid license fees for the balance of the year of termination. In the event of termination of this Agreement by the Licensee pursuant to Section 6.2(b) or 6.2(c) Company shall refund the unamortized portion (assuming straight line amortization) of the annual license fees paid.

Amendment to Section 6.3 Section 6.3 to the Agreement is hereby deleted. Section 6.3, below, becomes Section 6.3 to the Agreement, as here amended.

- 6.3.a Upon any termination of this Agreement and/or the license to use any Infinite Campus Products, allowing for a reasonable transition time, Licensee shall cease to use the Infinite Campus Products and shall return to Company the Infinite Campus Products and all copies thereof and all proprietary and confidential property of Company. Licensee shall expunge all copies of the Infinite Campus Products from its computer(s) and server(s). Failure to comply with this Section after a reasonable transition time shall constitute continued use of the Infinite Campus Products. Licensee shall provide a certificate from an officer of Licensee stating compliance with this Section. Company shall also have such other legal and equitable rights and remedies to which it may be entitled with respect to Licensee's failure to comply with the provisions of this Agreement.
- 6.3.b Upon 90 business days following the termination of this Agreement, or sooner at the request of the District, Company warrants that the original and all copies of District information, educational records and pupil records as such terms are defined by the Family Educational Rights and Privacy Act (20 U.S.C. § 1232g; 34 CFR Part 99, "FERPA"), and any other State or Federal law relating to the protection of confidential student information, will be returned to the District in a format as the parties shall reasonably agree or at the request of the Licensee destroyed in such a manner that such information cannot be read, executed, viewed or in any way accessed when destroyed.

Amendment to Section 9.2 Section 9.2 to the Agreement is hereby deleted. Section 9.2, below, becomes Section 9.2 to the Agreement, as here amended.

- 9.2 **Governing Law.** This Agreement will be governed and interpreted under the laws of the Commonwealth of Pennsylvania, U.S.A, without regard to its conflict of law's provisions. Any action arising out of or related to this Agreement must be brought within four (4) years from the first date such action could have been brought, despite any longer period provided by statute. If a longer period is provided by statute, the parties hereby expressly waive it.

Amendment to Section 9.7 Section 9.7 to the Agreement is hereby deleted. Section 9.7, below, becomes Section 9.7 to the Agreement, as here amended.

- 9.7 **Entire Agreement.** This Agreement supersedes all previous agreements and representations of, between or on behalf of the parties regarding the subject matter herein. Any document, instrument, or agreement issued or executed contemporaneous or subsequent to this Agreement shall not alter the terms and conditions of this Agreement. This Agreement contains all of Company's and Licensee's agreements, warranties, understandings, conditions, covenants and representations in regard to the subject matter herein. Neither Company nor Licensee will be liable for any warranties, understandings, conditions, covenants or representations not expressly set forth or referenced in this Agreement. Licensee acknowledges that Company reserves the right to refuse any different or additional provisions in purchase orders, invoices or similar documents, and such refused provisions will be unenforceable. Attached hereto and incorporated herein by this reference as Exhibit "B" are the representations that are included in this Agreement.
- 9.7a **Agreement.** This Agreement consists of the following documents only: (1) these Terms and Conditions of Agreement; and (2) the following Exhibits that are attached hereto and incorporated in this Agreement:

Exhibit "A", relating to: Onsite Application Hosting Services Agreement; and
Exhibit "B", relating to: Representation.

The intent of the Agreement documents is to include all items necessary for the proper execution and completion of the services and work by the parties. The contract documents are complementary, and what is required by one shall be as binding as if required by all; performance by the parties shall be required only to the extent consistent with the contract documents and reasonably inferable from them as being necessary to produce the indicated results. If there are any actual conflicts between this End User Agreement and any provision(s) contained in any of the Exhibits attached hereto, these Terms and Conditions shall control.

Amendment to Section 9.9.c. Section 9.9.c to the Agreement is hereby deleted. Section 9.9.c, below, becomes Section 9.9.c to the Agreement, as here amended.

9.9.c. If Company experiences a security breach concerning any education record covered by this Agreement, Company shall immediately notify Licensee and take immediate steps to limit and mitigate such security breach to the extent possible. The Parties agree that any material breach by Company of the confidentiality obligation set forth in this Agreement may, at Licensee's discretion, result in cancellation of this Agreement and the eligibility for Company to receive any information from Licensee for a period of not less than five (5) years. The Parties further agree to indemnify and hold each other harmless for any loss, cost, damage or expense suffered by the non-breaching Party, including but not limited to the cost of notification of affected persons, as a direct result of the breaching Party's unauthorized disclosure of education records that are subject to FERPA, or any other confidentiality/privacy provision, whether federal, state or administrative in nature. Notwithstanding anything herein to the contrary, the amount payable under this provision shall not be subject to the maximum amount of liability set forth in paragraph 5.0 of this Agreement.

Amendment to Section 9.9.d. Section 9.9.d to the Agreement is hereby deleted. Section 9.9.d, below, becomes Section 9.9.d to the Agreement, as here amended.

9.9.d. Upon termination of this Agreement, Company shall, as directed by the Licensee, return and/or destroy all data or information that it received from Licensee hereunder as, and in accordance with, Section 6.3.b of this Agreement. Company shall not knowingly retain copies of any data or information received from Licensee once Licensee has directed Company as to how such information shall be returned and/or destroyed. Furthermore, Company shall ensure that it disposes of any and all data or information received from Licensee in a commercially reasonable manner that maintains the confidentiality of the contents of such records (e.g. shredding paper records, erasing and reformatting hard drives, erasing and/or physically destroying any portable electronic devices).

Addition of Section 9.13. Section 9.13 to the Agreement is hereby added. Section 9.13, below, becomes Section 9.13 to the Agreement, as here amended.

- 9.13 General Rules of Construction. Except as expressly stated otherwise, all references to "Paragraph(s)" or "Section(s)" in this Agreement are references to Paragraphs and Sections of this Agreement or the Exhibits attached to this Agreement; and all references to Exhibit(s) are references to the Exhibits attached hereto, if any. The headings used in this Agreement are for reference and convenience only, do not in any way define, limit, describe, or amplify the provisions of this Agreement or the scope or intent of its provisions, are not a part of this Agreement, and will not enter into the interpretation of this Agreement. All references to "days" in this Agreement mean calendar days unless otherwise stated. The term "business day" or "working day" means Monday through Friday, excluding holidays observed by either party.

IN WITNESS WHEREOF, this Amendment to the Infinite Campus End User License Agreement has been executed by the duly authorized representative of Company and Licensee.

Infinite Campus, Inc.

Downingtown Area School District

By: 

By: 
Jane S. Bertone (Jan 24, 2019)

Name: Eric Creighton

Name: Jane S. Bertone

Its: Chief Operating Officer

Its: Downingtown Board President

EXHIBIT A

APPLICATION INFRASTRUCTURE SUPPORT SERVICES

- 1.0 Services.** During the term of the License, and subject to payment of the fees for the Infinite Campus Products and the fees for the Infinite Campus Services, Company shall provide:
- 1.1 Level 2 Technical Support.** Company will provide Application Infrastructure Support (AIS) services for properly trained Licensee resources who are responsible for Level 1 support of equipment, network components, and hardware that supports the architecture outlined in figure 1, ("the Infrastructure") under the following terms:
- 1.1.a Hours of Service.** Company personnel shall be normally available either via phone or via e-mail Monday through Friday, 8:00 a.m. to 5:00 p.m., Central Standard Time.
 - 1.1.b Authorized Contact Personnel.** Licensee shall identify two (2) people who shall be authorized to contact Company for AIS services. Licensee shall provide Company with a written list of such authorized personnel within thirty (30) days of the execution of this Agreement. Licensee further agrees to keep Company informed of changes made to this authorization list as they take place and that authorized personnel share proficiency in database management, application server management and network management. Company, at its sole discretion, may modify the technical proficiency requirements of Authorized Contact Personnel.
 - 1.1.c Environment.** AIS services are provided to one (1) application instance and one (1) database instance. Company and Licensee will identify the one supported instance (typically a Staging or Testing Environment). AIS services are provided specifically as it relates to the operation of the Products on the Infrastructure.
- 1.2 Application Update Services.** Company will deliver Product upgrades, updates, and patches and apply to supported Environment as defined in Section 1.1.c.
- 1.3 Disaster Services.** In the event of the failure of the Licensee infrastructure, Company shall be capable of providing remote emergency Application Hosting Services under the following terms:
- 1.3.a Availability.** Emergency Application Hosting Services will be made available within 72 hours of a formal request being received.
 - 1.3.b Data.** Licensee must provide the database instance to be used, and is responsible for the migration of any new data back in to the

production environment once the Infrastructure is restored to operational conditions.

- 1.3.c **Limited Functionality.** Emergency Application Hosting Services are intended to allow core business processes (for example, recording attendance), for a limited number of users, to continue uninterrupted in the event of a failure of the Infrastructure. It is not intended to replace all service provided by the Infrastructure.

2.0 Payment

- 2.1 **Fees.** Fees for AIS Services will be paid in accordance with Exhibit A, Section 3.0 of this Agreement.
- 2.2 **Adjustment of AIS Fees.** Company may change the AIS fees as provided under this Agreement by providing written notification to Licensee on or prior to January 31st of each year for changes to take effect on or after July 1st of the following fiscal year.
- 2.3 **Costs Related to Modified Software.** If Company corrects defects or problems attributable to errors made by Licensee or corrections or modifications made by Licensee, Licensee agrees to pay Company the Company's then current standard rates for time and materials as set forth above.
- 2.4 **Travel Expenses.** Licensee agrees to pay Company for all travel and other incidental expenses, including, but not limited to, meals, telephone charges, and shipping costs incurred in connection with Company's performance of its duties under this Agreement, as applicable.
- 2.5 **Diagnostic Expenses.** In the event Company performs services to diagnose a defect that Licensee claims exists in the Infinite Campus Products and Company subsequently proves the Infinite Campus Products conforms to specifications as described in Section 4.2 of the Infinite Campus End User License Agreement, Licensee will reimburse Company for such services in accordance with this Agreement, or otherwise at then-current rates. In the event the defect is the result of the Infinite Campus Product no expenses per section 4.3 above will be provided to the Company.

- 3.0 **Grant of Use.** In consideration of Company's satisfactory performance of all obligations of this Agreement, for the term of this Agreement, Licensee grants to Company a right to copy, display, use, and transmit on and via the Internet the Licensee Content, solely for the benefit of Licensee and in accordance with Company's performance or enforcement of this Agreement. Licensee Content is defined as all files, pages, data, works, information and/or materials on, within, displayed, linked or transmitted to, from or through the Site, including without limitation, trade or service marks, images, photographs, illustrations, graphics, audio clips, video clips, e-mail or other messages, metatags, domain names, software and text.

4.0 Modifications Excluded. Company shall not be obligated to provide AIS services pursuant to this Agreement with respect to any modifications to the Software made by Licensee or to any computer program incorporating all or any part of the Software.

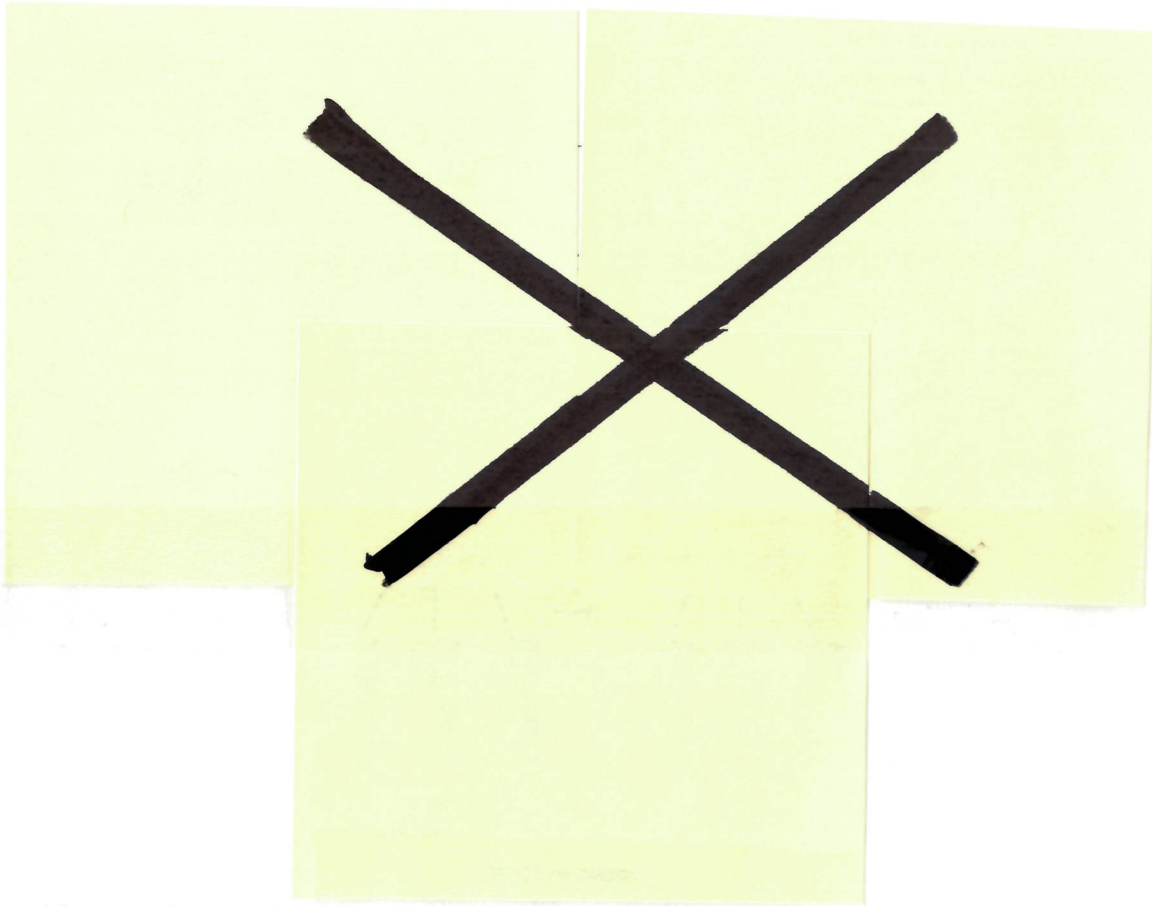


Figure 1 (SAMPLE)

Order and Pricing Schedule

Reference to Agreement. This Order and Pricing Schedule is subject to and incorporates all of the provisions stated in the End User License Agreement between Infinite Campus, Inc., ("Company") and Downingtown Area School District, ("Licensee").

Description	Term Start Date	Term Length	Quantity	Fee Type	Unit Price	Total
Infinite Campus District Edition - 6 months License, Hosting, Support - District Self Hosting (renews 7/1 each year)	1/1/2019	6	12,656	Prorated		
Infinite Campus Online Registration Prime - 13 Month Initial Term - (renews 7/1 each year)	6/1/2019	13	12,656	Prorated		
Prorated Initial Term Total						
Description	Term Start Date	Term Length	Quantity	Fee Type	Unit Price	Total
Infinite Campus District Edition Annual Subscription - District Self Hosting (renews 7/1 each year)	7/1/2019	12	12,656	Annual		
Campus Learning Annual Subscription - (renews 7/1 each year)	7/1/2019	12	12,656	Annual		
Infinite Campus Online Registration Prime Annual Subscription - (renews 7/1 each year)	7/1/2020	12	12,656	Annual		
Infinite Campus Data Change Tracker Annual Subscription - (renews 7/1 each year)	7/1/2019	12	12,656	Annual		
Infinite Campus Data Extract Utility Annual Subscription - (renews 7/1 each year)	7/1/2019	12	12,656	Annual		
Annual Recurring Total						\$150,560.00

Downingtown Area School District

By: Jane S. Bertone
Jane S. Bertone (Jan 24, 2019)
Jane S. Bertone
Its: Downingtown Board President



INTRODUCTION

Congratulations on selecting Infinite Campus, the nation's leading Student Management System!

This document outlines the scope of services, pricing, and key terms for the Infinite Campus implementation project, as well as the annual license, hosting, and support fees.

Please do not hesitate to contact your Custom Account Manager with any questions or concerns.

KEY PROJECT INFORMATION

District Name:	Downingtown Area School District
District Address:	540 Trestle Place Downingtown, PA 19335
District Project Sponsors:	
- Technology	Colleen Yenser
Project Start Date:	January 1, 2019
Target Go-Live Date:	Summer 2019
License Anniversary :	July 1
Hosting Location:	On Site Hosting (District Hardware)

SUMMARY OF PROJECT SCOPE

SCOPE OF PRODUCT

During the initial implementation, Custom will install the following Infinite Campus modules in the District (see table below). Pricing is noted below, based on the District's most recent student enrollment.

Module	Description	Licenses	Annual Price
Infinite Campus District Edition	<ul style="list-style-type: none">- Software license fees (including maintenance and product updates)- Server hardware (Database and Web Server)- Hosting (includes nightly backups, antivirus, OS patches)- Support Fee (includes web and toll-free telephone support for authorized users)	12,656	

Infinite Campus is sold as an annual subscription-based solution. The District does not need to purchase any hardware or software to support Infinite Campus – everything you need to run Infinite Campus is included in the annual subscription. This includes licensing, hardware, hosting services, and product support. For detailed pricing information, see the Pricing Terms section below.



SCOPE OF SERVICES

The following table summarizes the Implementation Services included in the Infinite Campus implementation project:

Activity	Description	Number of Units
Project Management	<ul style="list-style-type: none"> - Project planning & management, resource planning and management, overall schedule tracking and reporting, quality assurance - Dedicated Project Kickoff Meetings - Primary point of contact for all implementation issues - Includes Project Management for Infinite Campus District Edition, Campus Learning, Online Registration Prime, and Data Visualization 	<i>As required</i>
Data Conversion:	<ul style="list-style-type: none"> - Iterative trial conversions, plus the final iteration of data from the District's legacy system. - Extensive Quality Assurance Testing - Exception reporting provided to assist with data cleanup 	
Volume:	Years of historical data to be converted.	<i>9 Years</i>
Source:	The legacy system housing the data currently	<i>eSchoolPLUS</i>
Site Setup and Configuration	<ul style="list-style-type: none"> - Includes SQL Server database and Tomcat Application Server - Configuration and testing of Campus Messenger server (if purchased) 	<i>As required</i>
Training	Role based training sessions, facilitated by Certified trainers	
Training Days Provided	Training days to be used in full 8-hour increments, unless specified by your Project Manager:	<i>23 Days</i>
Location	Training may be offered in-district, via WebEx, or at Custom's facilities.	<i>In-District</i>
Location	Training offered in-district, via WebEx, or at Custom's facilities.	
Go Live Support	<ul style="list-style-type: none"> - A Campus certified product expert will provide on site support and training services during your Go-Live. They will work with your staff to resolve any issues that arise during the Go-Live period. 	<i>5 Days</i>
3rd Party Integration	Development of manual or automated one-way data extracts for integration with 3rd party solutions (Food Service, Transportation, Library, School Messenger, Naviance). Should 3 rd party integrations require a bi-directional data flow, each direction would be considered a single integration. As an example, the 8 integrations included could either be used for 8 unique, single direction integrations or 4 bi-directional integrations. The Data Extract Utility and Task Scheduler provide the district with the ability to provide data to any third party system on a schedule/automated bases.	<i>8 Included</i>
Solutions Consulting	A Solution Consultant will be provided upon Go-Live to identify and provide support on key district initiatives. Examples include: <ul style="list-style-type: none"> - Leveraging the Multi Year Academic Planner - Standards based course/gradebook setup - Portal adoption and rollout strategies - Maximize stakeholder communication leveraging Infinite Campus automation tools 	<i>7 Days Included</i>

For additional detail on each of these activities, see the corresponding sections following in this document.

All-inclusive Infinite Camus District Edition implementation fees:

\$131,400.00

This fixed fee amount covers all core implementation services necessary for the District to utilize Infinite Campus.

These costs were derived using the information provided to us by the District, our evaluation of its needs, expectations, and environment, and our experience implementing Infinite Campus.

In the event that an unforeseen need arises, or work outside of the scope of our proposal is needed, Custom will, in a timely manner, initiate a Change Order (CO) for your acceptance. A Change Order is, in essence, a request for services not contracted for, or agreed to, in the original proposal or purchase order. Should this need arise, Custom will review the necessary additions with you, document the work to be performed, and submit the Change Order for the District's approval. Any materials or services provided under a Change Order will be invoiced separately unless an alternate method is specifically requested.

Any delays to planned and mutually agreed upon activities to the implementation caused by the District may result in additional fees for implementation services.



PRICING TERMS

Infinite Campus District Edition Product Fees

The initial six (6) month term, (January 1, 2019 – June 30, 2019), license, hosting, and support fees of [REDACTED] is due upon execution of this agreement. *The first full year's software licensing, hosting, and support fees, (July 1, 2019 - June 30, 2020), of \$[REDACTED] will be invoiced on June 1, 2019.* The current per-student pricing is guaranteed through 12/31/2019. The recurring annual licensing, hosting and support fees will be invoiced 30 days prior to the start of each year based upon the most recent student enrollment count (as published by the Pennsylvania State Department of Education official census reporting) not to exceed 4%.

Service Fees

The implementation service fees will be payable in 3 installments, as follows.

- **The initial milestone payment of \$43,800.00 is due upon execution of this agreement.**
- The second milestone payment of \$43,800.00 will be invoiced on March 1, 2019.
- Payment 3, for \$43,800.00 will be invoiced upon the completion of the final Data Conversion and Go Live milestones.

Travel expenses are not included in the implementation fees. Travel expenses incurred by Custom employees associated with this project will be billed separately to the District (or an ESA if applicable). Custom Computer Specialists uses the following guidelines for expense billing:

Airfare/Train Fare	Actual cost.
Transportation to/from Airport	Actual cost. Custom Computer Specialists uses a car service.
Ferry	Actual cost.
Rental Car / Cab Fare	Actual cost.
Gas for Rental Car	Actual cost.
Hotel	Actual cost.
Mileage (used in cases where an employee uses his/her private vehicle for travel)	Fixed rate per mile determined by Custom Computer Specialists' travel policy which is based on IRS guidelines.
Tolls	Actual cost.
Parking	Actual cost.
Meals & Incidentals	A fixed daily rate determined by Custom Computer Specialists' travel policy is used. This daily "Per Diem" is based on IRS guidelines.

Services requested outside the scope of this engagement will be billed at the following daily rates:

Service Category	Daily Rate
Training Services (excludes Custom Report Training and Scheduling Training)	\$1,400/day
Onsite Support Services	\$1,400/day
Custom Report Development/Data Services (including Custom Report Training)	\$1,600/day
Project Management/Consultative Services (includes Scheduling Training)	\$1,800/day

Daily Services Rates are effective through 12/31/2019, but subject to change thereafter.

All payments are due net 30 days from the date of invoice. Finance charges will accrue from 30 days after the date of invoice to the payment date at an annualized interest rate equal to 10%.



Custom Computer Specialists will notify the District at the completion of each Milestone, and will request sign-off to indicate the District's acceptance. The District will have 10 days after receipt of the Milestone Completion Notice to contest the completion of work, or report any significant issues. If after 10 days, the District has not contested the Milestone Completion, the Milestone will be considered complete.

Notices to be delivered to:

If to Client:

Jane S. Bertone
Downingtown Area School District
540 Trestle Place
Downingtown, PA 19335

If to Custom:

Gregory G. Galdi, President
Custom Computer Specialists, Inc.
70 Suffolk Court
Hauppauge, NY 11788

ACCEPTANCE

By signing in the space provided below, each party confirms its agreement to the scope of services described above in accordance with Custom's Standard Terms and Conditions. Accordingly, any terms and conditions on or attached to Customer's purchase orders shall be of no force or effect. Downingtown Area School District agrees to make payment to Custom Computer Specialists for fees and expenses incurred in accordance with the terms specified for the Infinite Campus project above.

Downingtown Area School District

Custom Computer Specialists, Inc.

By: Jane S. Bertone
Jane S. Bertone (Jan 24, 2019)

By: JP Nel
JP Nel (Jan 24, 2019)

Name: Jane S. Bertone

Name: JP Nel

Title: Downingtown Board President

Title: President, Application Services Division

Date: 1/24/19

Date: 1/24/19

Pages 5 -9 are redacted as these include descriptions of proprietary methodologies.



INFINITE CAMPUS PRODUCT SUPPORT OVERVIEW

Support Services. During the term of this Agreement, Custom shall provide the following Services to Licensee:

- E-Support Services. Responses to Licensee's Authorized Representatives technical and product questions of the licensed Infinite Campus Products via the Infinite Campus support website.
- Telephone Support Services. Responses to Licensee's Authorized Representatives technical and product questions of the licensed Infinite Campus Products via telephone.

Hours of Service. Custom personnel shall be normally available either via phone or via e-mail Monday through Friday, 7:00 a.m. to 6:00 p.m., Eastern Standard Time. Custom's offices are closed in observance of the following holidays: New Years Day, President's Day, Memorial Day, Independence Day, Labor Day, Thanksgiving Day, the day after Thanksgiving Day, Christmas Eve Day, Christmas Day and New Year's Eve Day.

Authorized Contact Personnel. Licensee shall identify two (2) people who shall be authorized to contact Custom for technical and product questions. Licensee understands and acknowledges that no more than the number of authorized contact personnel may be in communication with Custom at any one time. Licensee shall provide Custom with a written list of such authorized personnel within thirty (30) days of the execution of this Agreement. Licensee further agrees to keep Custom informed of changes made to this authorization list as they take place.

Payment

- Costs Related to Modified Software. If Custom corrects defects or problems attributable to errors made by Licensee or corrections or modifications made by Licensee, Licensee agrees to pay Custom's then-current standard rates.
- Diagnostic Expenses. In the event Custom performs services to diagnose a defect that Licensee claims exists in the Infinite Campus Products and Custom subsequently demonstrates the Infinite Campus Product(s) conform to Product Documentation, Licensee will reimburse Custom for such services in accordance with this Agreement, or otherwise at then-current rates.

Major Alarm

- Definition of a Major Alarm. A "Major Alarm" is defined as one of the following: (i) a complete failure of the Infinite Campus software system that results in the inability by Licensee to use the Infinite Campus software, (ii) the loss, corruption or unintended migration of Infinite Campus SIS data, (iii) the loss of an Infinite Campus function that supports an urgent business process (i.e. report card issuance), or (iv) an Infinite Campus interface failure that results in the inability by the Licensee to use the Infinite Campus software.
 - o Definition of Response. "Response" is defined as contacting the Licensee in response to receipt of a trouble ticket and working with Licensee to solve the problem. Once a trouble ticket has been documented, updates will be provided to the Licensee a minimum of once daily until a Major Alarm has been resolved or the urgency level associated with the trouble ticket has been downgraded by the Licensee. Custom will work diligently to solve all Licensee problems; however, Custom cannot provide any guarantee as to when a Major Alarm will be resolved.
 - o Response Time for a Major Alarm.
 - E-support response time – within two (2) hours.
 - Phone support – within one (1) hour.

Non-Major Alarm

- Definition of Response. "Response" is defined as contacting the Licensee in response to receipt of a trouble ticket and working with the Licensee to solve the problem. Once a trouble ticket has been documented, updates will be provided to the Licensee on a reasonable ongoing basis until a Non-Major Alarm is resolved. Custom will work diligently to solve all Licensee problems; however, Custom cannot provide any guarantee as to when a Non-Major Alarm will be resolved.
- Response Time for a Non-Major Alarm.
 - o E-support response time – within two (2) business days.
 - o Phone support – within one (1) business day.

Access to Data and Computer. On request, Licensee agrees to provide Custom with access to the Software or of data in storage that shows evidence of a programming error. Licensee further agrees to provide Custom with access to Licensee's computer and further agrees to provide sufficient computer time to enable Custom to duplicate the problem, determine that it results from the Software, and, after corrective action or replacement has taken place, determine that the problem has been alleviated.



Congratulations on selecting Campus Learning!

INTRODUCTION

This document outlines the annual subscription fees and key terms for Campus Learning. Please do not hesitate to contact your Custom Computer Specialists ("Custom") Account Manager with any questions or concerns.

KEY PROJECT INFORMATION

District Name:	Downingtown Area School District
Activation Date:	July 1, 2019
Anniversary Date	July 1
License Type	District

SUMMARY OF FEES

Annual Subscription Fees

Campus Learning is sold as an annual subscription-based solution for your entire District, or by Building.

Module	Description	Students	Annual Fees
Campus Learning Subscription	Campus Learning is the Infinite Campus Learning Management System that connects teachers to new, powerful tools for digital learning. Campus Learning is a premium option for Campus Instruction.	12,656	
Total Annual Subscription Fees:			

KEY TERMS

The District will provide a Purchase Order for the first year subscription of [REDACTED] upon execution of this agreement. The current per-student pricing is guaranteed through 12/31/2019. The recurring annual licensing, hosting and support fees will be invoiced 30 days prior to the start of each year based upon the most recent student enrollment count (as published by the Pennsylvania State Department of Education official census reporting) not to exceed 4%.

All payments are due net 30 days from the date of invoice. Finance charges will accrue from 30 days after the date of invoice to the payment date at an annualized interest rate equal to 10%.

Notices to be delivered to:

If to Client:

Jane S. Bertone
Downingtown Area School District
540 Trestle Place
Downingtown, PA 19335

If to Custom:

Contract Administrator
CustomTech Software
70 Suffolk Court
Hauppauge, NY 11788



ACCEPTANCE

By signing in the space provided below, each party confirms its agreement in accordance with Custom's Standard Terms and Conditions. Support terms are defined in the District's Master Agreement for the Infinite Campus District Edition. Downingtown Area School District agrees to make payment to Custom Computer Specialists for fees and expenses incurred in accordance with the terms specified for Campus Learning.

Downingtown Area School District

Custom Computer Specialists, Inc.

By: Jane S. Bertone
Jane S. Bertone (Jan 24, 2019)

By: JP Nel
JP Nel (Jan 24, 2019)

Name: Jane S. Bertone

Name: JP Nel

Title: Downingtown Board President

Title: President, Application Services Division

Date: 1/24/19

Date: 1/24/19



Congratulations on selecting Campus Online Registration Prime!

INTRODUCTION

This document outlines the implementation costs and key terms for Campus Online Registration Prime. Please do not hesitate to contact your Custom Account Manager with any questions or concerns.

KEY PROJECT INFORMATION

District Name:	Downingtown Area School District
Implementation Date (Estimated):	1/1/2019
Anniversary Date	July 1

SUMMARY OF FEES

Subscription Fees

Campus Online Registration Prime is sold as an annual subscription-based solution.

Module	Description	Cost	Students	Annual Fees
Campus Online Registration Prime Subscription	Enables Districts to register students easily and online eliminating data entry by staff	[REDACTED] ant, minimum [REDACTED]	12,656	[REDACTED]
Total Annual Subscription Fees:				[REDACTED]

SCOPE OF SERVICES

The following table summarizes the Implementation Services:

Activity	Description	Number of Units
Implementation	Project Management, Consultation and Implementation Support	[REDACTED]
Training	Administration and user Interface Training - 1 Day Interface Training for district staff - 5 Days OLR Setup and configuration by Custom Staff based on district provided registration requirements	[REDACTED]
Total Services Fees:		\$11,900.00

PRICING TERMS

Infinite Campus Online Registration Prime Product Fees

The initial thirteen (13) month term subscription fees, (June 1, 2019 - June 30, 2020), of \$[REDACTED] will be invoiced on May 1, 2019. The current per-student pricing is guaranteed through 12/31/2019. The recurring annual subscription fees will be invoiced 30 days prior to the start of each year based upon the most recent student enrollment count (as published by the Pennsylvania State Department of Education official census reporting), not to exceed 4%.

The District will provide a Purchase Order for the thirteen (13) month term [REDACTED] and service fees (\$11,900.00) of [REDACTED] upon execution of this agreement.

The Custom Project Manager will assist the district with configuring the Online Registration ("OLR") solution. Should a need arise to customize the core OLR product, Custom will review the necessary additions with the district and assist with submitting the Change Order to Infinite Campus. Any product Change Orders and related services will be invoiced separately from this agreement.

All payments are due net 30 days from the date of invoice. Finance charges will accrue from 30 days after the date of invoice to the payment date at an annualized interest rate equal to 10%. Travel expenses incurred by Custom employees associated with this project will be billed to the District (or an ESA if applicable). Custom Computer Specialists uses the attached guidelines for expense billing.



Congratulations on selecting Infinite Campus Data Extract Utility!

This document outlines the key terms for your Infinite Campus Data Extract Utility.

KEY PROJECT INFORMATION	
District Name:	Downingtown Area School District
District Address:	540 Trestle Place Downingtown, PA 19335
District Contact:	Colleen Yenser
Anniversary Date:	July 1

SUMMARY OF FEES		
Service	Description	Annual Price
Infinite Campus Data Extract Utility	Automates data integration with external databases and third-party systems. Sets up and schedules flat file data extracts in the right form, at the right time.	
Total Annual Fee:		

SCOPE OF SERVICES

The following table summarizes the Implementation Services:

Activity	Description	Number of Units
Implementation Training	Project Management, Consultation and Implementation Support, including Administration and User Interface Training	\$1,400.00
Total Services Fees:		\$1,400.00

TERMS AND CONDITIONS

Custom Computer Specialist Standard Terms and Conditions apply and are amended by the following:

Term: Infinite Campus Data utility Extract is sold as an annual subscription-based solution. The recurring annual fees will be invoiced 30 days prior to the Anniversary Date.

Payment: All payments are due net 30 days from the date of invoice. Finance charges will accrue from 30 days after the date of invoice to the payment date at an annualized interest rate equal to 10%. The District will provide a Purchase Order for services upon execution of this agreement.

PRICING TERMS

Infinite Campus Data Extract Utility Product Fees

The annual subscription, July 1, 2019 – June 30, 2020, fees of [REDACTED] are due upon execution of this agreement. The current per-student pricing is guaranteed through 12/31/2019. The recurring annual subscription fees will be invoiced 30 days prior to the start of each year based upon the most recent student enrollment count (as published by the Pennsylvania State Department of Education official census reporting), not to exceed 4%.



ACCEPTANCE

By signing in the space provided below I accept the proposal and pricing submitted by Custom Computer Specialists, Inc. and accept the Terms & Conditions provided.

Downingtown Area School District

Custom Computer Specialists, Inc.

By: Jane S. Bertone
Jane S. Bertone (Jan 24, 2019)

By: JP Nel
JP Nel (Jan 24, 2019)

Name: Jane S. Bertone

Name: JP Nel

Title: Downingtown Board President

Title: President, Application Services Division

Date: 1/24/19

Date: 1/24/19



Congratulations on selecting Infinite Campus Data Change Tracker!

This document outlines the key terms for your Infinite Campus Data Change Tracker subscription.

KEY PROJECT INFORMATION	
District Name:	Downingtown Area School District
District Address:	540 Trestle Place Downingtown, PA 19335
District Contact:	Colleen Yenser
Anniversary Date:	July 1
Hosting	In District (District Hardware)

SUMMARY OF FEES			
Service	Description	Count	Annual Price
Infinite Campus Data Change Tracker	Provides users the ability to track and view data modified within Campus and its database.		
In District Hosted Tracking for 3 years of data changes	For In District hosted districts, data changes are tracked and stored for three years.	12,656	
Total			

TERMS AND CONDITIONS

Custom Computer Specialist Standard Terms and Conditions apply and are amended by the following:

Term: Infinite Campus Data Change Tracker is sold as an annual subscription-based solution. The recurring annual fees will be invoiced 30 days prior to the Anniversary Date, not to exceed 4%.

The Data Change Tracker is an extension of Infinite Campus and all the same terms and conditions apply.

Payment: All payments are due net 30 days from the date of invoice. Finance charges will accrue from 30 days after the date of invoice to the payment date at an annualized interest rate equal to 10%. The District will provide a Purchase Order for services upon execution of this agreement.

ACCEPTANCE

By signing in the space provided below I accept the proposal and pricing submitted by Custom Computer Specialists, Inc. and accept the Terms & Conditions provided.

Downingtown Area School District

Custom Computer Specialists, Inc.

By: Jane S. Bertone
Jane S. Bertone (Jan 24, 2019)

By: JP Nel
JP Nel (Jan 24, 2019)

Name: Jane S. Bertone

Name: JP Nel

Title: Downingtown Board President

Title: President, Application Services Division

Date: 1/24/19

Date: 1/24/19



Thank you for purchasing Custom Backpack!

Custom Backpack is a document distribution tool that provides the ability for districts to publish custom reports on the Infinite Campus parent/student portal.

KEY PROJECT INFORMATION	
District Name:	Downingtown Area School District
District Address:	540 Trestle Place Downingtown, PA 19335
District Project Sponsors:	Colleen Yenser
Effective Date	July 1, 2019
Anniversary Date:	July 1

Subscription Fees				
<i>Custom Backpack is sold as an annual subscription-based solution.</i>				
Module	Description	Cost	Students	Annual Fees
Custom Backpack Subscription	Enables Districts to schedule and publish custom reports on the Campus Portal	\$2/student	12,656	[REDACTED]
Total Annual Subscription Fees:				[REDACTED]

One-time Implementation Fees	
Description	One-Time Fee
Product implementation, project management and administrator training.	\$2,500
Total Implementation Fees:	\$2,500

PRICING TERMS

Subscription Fees

The current pricing is guaranteed through December 31, 2019. The recurring annual subscription fees will be invoiced 30 days prior to the Anniversary Date and be based upon the most recent PA State Department of Education's official census reporting, not to exceed 4%.

TERMS AND CONDITIONS

Payment: Downingtown Area School District will provide a Purchase Order for implementation fees and initial term, (July 1, 2019 – June 30, 2020), subscription fees [REDACTED] upon execution of this agreement. All payments are due net 30 days from the date of invoice. Finance charges will accrue from 30 days after the date of invoice to the payment date at an annualized interest rate equal to 10%. Travel expenses incurred by Custom employees associated with this project will be billed to the District (or an ESA if applicable). Custom Computer Specialists uses the attached guidelines for expense billing.

Report Modifications: The annual subscription fees limit coverage of changes to two (2) existing reports that Custom has created. Covered changes are those necessary to integrate the reports into the Backpack system. Any changes to the layout of or information presented in the existing reports are outside the scope of this agreement and as such, will incur additional charges as defined in a separate work order agreement.



ACCEPTANCE

By signing in the space provided below, each party confirms its agreement in accordance with Custom's Standard Terms and Conditions, the Custom Product End User License Agreement, and the Additional Terms and Conditions provided herein. Support terms are defined in the District's Master Agreement for the Infinite Campus District Edition. The currently effective Custom Product End User License Agreement can be found at <http://www.customtech.com/assets/EULACustomProducts.pdf>.

Downingtown Area School District agrees to make payment to Custom Computer Specialists for fees and expenses incurred in accordance with the terms specified.

Downingtown Area School District

Custom Computer Specialists, Inc.

By: Jane S. Bertone
Jane S. Bertone (Jan 24, 2019)

By: JP Nel
JP Nel (Jan 24, 2019)

Name: Jane S. Bertone

Name: JP Nel

Title: Downingtown Board President

Title: President, Application Services Division

Date: 1/24/19

Date: 1/24/19

Last two pages redacted.

These includes Adobe Sign History (the Transaction ID, personal name and email information as well as the approval workflow).